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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------|------------------------|
| 10/692,052 | 10/22/2003 | Barry Charles Kilby | 12406/83 | 7288 |
| 7590 KENYON & KENYON One Broadway New York, NY 10004 | | | EXAMINER PANDYA, SUNIT | |
| | | | ART UNIT 3714 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/692,052 | Applicant(s) KILBY ET AL. | |
| | Examiner SUNIT PANDYA | Art Unit 3714 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/18/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-34, 36-38, 40-55 and 57-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-34, 36-38, 40-55, 57-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This action is in response to amendments filed 12/18/2008, wherein the examiner acknowledges that the applicant has amended claims 31, 36, 38 & 53; and canceled claims 35, 39 & 56. No new claims have been added, consequently, claims 31-34, 36-38, 40-55, 57-61 are currently pending in the instant application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31-34, 36-38, 40-55, 57-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Healy (GB 2,231,189), and further in view of Goldberg et al. (US Patent 5,823,879).

Claims 31, 53: Healy teaches of method for facilitating the play of a missing object location game which provides a game image to the game player, the game image is configured to omit the missing object from the game image and allows the player to indicate a guess as to the proper location of the missing object on the game image (pages 1-2, paragraph 3, wherein the guess coordinates to the location on the game image of the missing object when the players guess is indicated). Healy also teaches of providing coordinates associated with the game image, and receiving the player's guess

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by receiving a location in the set of coordinates on the game image selected using a pointing device (wherein the coordinates are a set of X and Y grid, and the possibility of player winning could easily be modified by modifying the area within the grid) (page 6, paragraph 3 & figure 4). In response to the player's guess, determine whether the player has won the game, depending on the distance between the player's guess as to the proper location of missing object on the game image (page 3, paragraph 3).

However Healy fails to teach of a security feature that require player to enter a unique code via a network. In an analogous art of computer gaming system, Goldberg et al. teaches of network gaming, which allows users to accessing a game on a website by means of a security feature or code (figure 3 & col. 10: 11-30, wherein all the information could be stored at a game server). It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the security features such as secure access as taught by Goldberg et al., in the game of Healy in order to allow access to the game by certain players who have made purchase to participate in the game, and block player's who have not contributed monetarily to participate in the game.

Claims 32, 54: Healy teaches of game image is a picture of a sporting event including a ball, where the ball is omitted from the picture (figure 4).

Claims 33, 34, 42, 55: Goldberg et al. teaches of accessing a game on a website by means of a security feature or code (figure 7 & col. 14: 29-65), However Goldberg et al. does not explicitly state that the security code is stored on a ticket. It would have been obvious to a person of ordinary skill in the art at the time of the

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invention to modify Goldberg et al. to include the security feature on a ticket, or barcodes or on magnetic strips, in order to make it easily accessible and portable for the player to use.

Claims 36-37, 61: Healy teaches of providing coordinates associated with the game image, and receiving the player's guess by receiving a location in the set of coordinates on the game image selected using a pointing device (wherein the coordinates are a set of X and Y grid, and the possibility of player winning could easily be modified by modifying the area within the grid) (page 6, paragraph 3).

Claim 38: Healy teaches of a pointing device being a mouse (page 8, paragraph 2).

Claims 40,41: Healy teaches of receiving predetermined number of additional guesses from the player, wherein each indicating a corresponding location guess as to the proper location of the missing object, and displaying an image at the guess locations (figure 5, page 6, paragraph 2).

Claim 43: Healy determines the winning if the players' guess is within a predetermined distance of the actual location of the missing object (page 7).

Claims 44, 45: Healy determines the winning if the players' guess is within a predetermined distance of the actual location of the missing object (page 7), wherein a processor is confined to evaluate the distance to determine the winner, and a game programmer would find it within their means to be able to manipulate the processor thus controlling the distance to increase or decrease the number of winners.

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Claim 46: Combination of Healy and Goldberg et al. teach of receiving from plurality of players respective guesses as to the proper location of the missing object in the game image.

Claims 47-50, 57-60: Healy determines the winning if the players' guess is within a predetermined distance of the actual location of the missing object (page 7).

Claim 51: Goldberg et al. teaches of communication through an email regarding a players' game activity (col. 5: 4-25).

Claim 52: Healy teaches of displaying the game image with the missing object in the actual location (page 9).

Response to Arguments

Applicant's arguments with respect to claim 31-34, 36-38, 40-55, 57-61 have been considered but are moot in view of the new ground(s) of rejection.

In the updated rejection above, the examiner has cited particular paragraphs, columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUNIT PANDYA whose telephone number is (571)272-2823. The examiner can normally be reached on M-F 8 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/
Supervisory Patent Examiner, Art Unit 3714

SP